



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
Seattle, WA 98101

Reply To
Attn Of: ECL-117

March 25, 2003

Mr. C. Stephen Allred, Director
State of Idaho
Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706-1255

Mr. Ernest Stensgar, Chairman
Coeur d'Alene Tribe
P.O. Box 408
Plummer, ID 83851

RE: Coeur d'Alene Lake Management Plan Comment Letter

Dear Mr. Allred and Mr. Stensgar:

EPA Region 10 would like to commend the Coeur d'Alene Tribe and the State of Idaho for your efforts to revise the Coeur d'Alene Lake Management Plan. We all share the same goal of insuring Coeur d'Alene Lake is protected and preserved for the future.

This letter is intended to provide information and answer questions which have arisen regarding EPA's role under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) in the management of Coeur d'Alene Lake (the Lake). The purpose of the letter is to:

1. Clarify the relationship of the Lake Management Plan to CERCLA actions in the Coeur d'Alene Basin;
2. Clarify future EPA decision-making with regard to the Lake; and,
3. Describe the legal and administrative processes which will be necessary for moving forward with a Record of Decision for the Lake and partial deletion from the National Priorities List (NPL).

BACKGROUND

Nature and Extent of Contamination

The Remedial Investigation/Feasibility Study (RI/FS) for the Coeur d'Alene River Basin described the nature and extent of contamination related to mining wastes in the Lake. (See Part 5 of the Coeur d'Alene Basin Final RI Report, September 2001, and Section 8 of the Final FS Report, October 2001). Estimates of metals-contaminated sediment on the bottom of the Lake

range from 44 to 75 million metric tons. The Coeur d'Alene River is the primary source of metals to the Lake.

The RI report includes a detailed discussion of fate and transport of metals and nutrients in the Lake. Lakebed sediments are a major repository for metals and nutrients from the water column. Although there is some movement of metals from sediments to the water column, the amount appears to be insignificant, and indicates that, at this time, the Lake is a net sink for cadmium, lead, and zinc (FS Report, page 8-3). However, the development of eutrophic conditions could increase the rate of metals dissolution from lakebed sediments, impacting the water quality of the Lake.

Summary of Risks

Except for fill and spills along the Union Pacific Railroad, and small mines in the Wolf Lodge Creek watershed, there are no primary sources of mining contamination in the Coeur d'Alene Lake area. Communities surrounding the Lake are not believed to contain mining waste contamination which would pose a threat to human health. Likewise, beaches along the Lake (with the exception of Harrison beach, which has undergone remediation) are not believed to pose a threat to human health. The Union Pacific Railroad right-of-way is undergoing cleanup under a Consent Decree with EPA, the State of Idaho, and the Coeur d'Alene Tribe. Areas immediately adjacent to the right-of-way may also be affected by contamination and the subject of future cleanup actions.

Metals concentrations in the water column of the Lake generally meet the safe drinking water standards for metals, except during some periods of high flow from the Coeur d'Alene River. Concentrations of dissolved metals, especially lead and zinc, in the Lake north of the Coeur d'Alene River often exceed ambient water quality criteria for the protection of aquatic life. Concentrations of metals in lake sediment exceed ecological thresholds for the protection of benthic invertebrate communities.

The effects of the metals contamination in Coeur d'Alene Lake on fish and human consumption of the fish were identified as a data gap in the 2002 Record of Decision. In the Summer of 2002, multiple agencies and governments cooperated in sampling fish from Coeur d'Alene Lake. Those samples have been analyzed and were forwarded to both the Idaho Department of Health and Welfare and the Agency for Toxic Substances and Disease Registry for their evaluation of the health implications of eating fish from the Lake. The evaluation of these samples is expected to be released this Spring.

Evaluation of Cleanup Alternatives

Section 8 of the Final Feasibility Study Report for the Coeur d'Alene Basin (October 2001) contains a description of the analysis of cleanup alternatives for Coeur d'Alene Lake. Active cleanup alternatives such as capping and dredging were eliminated early in the screening process, based on technical implementability and cost. Two alternatives, "No Action" and "Implementation of the Lake Management Plan" underwent further evaluation. It was recognized that protection of human health and the environment in the Lake and the Spokane

River is largely dependant on the scope and effectiveness of remedial actions in the Coeur d'Alene River Basin.

Status of Remedy Decision for the Lake

The Record of Decision for the Bunker Hill Mining and Metallurgical Complex Operable Unit 3 (OU3 ROD) documented the remedial actions selected for the Coeur d'Alene Basin. The OU3 ROD did not include a cleanup decision for the Lake (Section 12.3, OU3 ROD, September 2002), deferring that decision to a later time. The ROD states that state, tribal, federal, and local governments are currently in the process of implementing a lake management plan outside of CERCLA. The ROD also recognized the uncertainty regarding potential human health risks resulting from fish consumption. EPA believes that effective implementation of the Lake Management Plan will negate the need for EPA to select a CERCLA remedial action for the Lake.

FUTURE DECISIONS FOR COEUR D'ALENE LAKE

EPA recognizes the community interest to implement lake management activities as non-CERCLA actions, and the desire expressed by many in the community to eventually delete the Lake from the Bunker Hill NPL site. The following discussion will attempt to describe the process EPA will need to follow to issue a remedy decision for the Lake and proceed with a proposal for a "partial deletion" of the Lake from the NPL site.

Record of Decision for the Lake

If a Lake Management Plan is adopted and implemented by state, tribal, and local governments, outside of CERCLA, EPA could make a determination that this action has eliminated the need for further remedial response, and propose a "no further CERCLA action" (NFA) remedy. This decision would rely on Lake Management Plan activities to protect the Lake from eutrophication and the resulting migration of metals contamination from sediment to the water column. There would be several steps leading to this decision.

First, the implementation of remedial actions in the Coeur d'Alene Basin needs to have begun before EPA will propose "no further action" for the Lake. Because the Coeur d'Alene River is the primary source of metals contamination in the Lake, implementation of the source control remedial actions in the upper basin is essential to any decision regarding the Lake. The 2002 OU3 ROD identified interim, long-term response actions for the river basin. Likewise, a 2001 OU2 ROD amendment identified upgrades to the Central Treatment Plant which treats highly contaminated mine drainage from the Bunker Hill Mine and prevents this discharge from entering the South Fork Coeur d'Alene River.

Second, the Lake Management Plan will have to contain provisions which will be effective in protecting water quality of the Lake when implemented. EPA will rely heavily on the expertise and opinions of state, tribal, federal, and local stakeholders who have participated in the development of the plan as to whether the plan will be effective. We will also review the Lake Management Plan to insure that any deficiencies identified by public review are addressed in the

final plan. The plan must also include an environmental monitoring program designed to demonstrate effectiveness of actions undertaken as a result of implementing the Lake Management Plan.

Third, EPA would require assurance that the Lake Management Plan has been adopted by state, local, and tribal governments, and that these governments have made a commitment to implement the plan over time. Indications for this commitment could include formal adoption of the plan by the governments, formal adoption of the plan by the Basin Environmental Improvement Project Commission, accountability checkpoints in the plan, a mechanism for coordination of the plan, a timetable for implementation, and a monitoring plan. In other words, EPA will not need the plan to be fully implemented, but will need to have documentation that provides a reasonable assurance of implementation over time.

EPA will follow statutory requirements for development and adoption of a ROD for the Lake. These requirements include development of an administrative record to support the decision, issuance of a Proposed Plan and a public comment period, a response to public comment, and a final ROD. Prior to issuance of a Proposed Plan, EPA will follow requirements of the Endangered Species Act. These requirements include consultation with the U.S. Fish and Wildlife Service to determine potential impacts of any decision on endangered or threatened species. Coeur d'Alene Lake is proposed critical habitat for bull trout. EPA will also consult extensively, as required by law, with the States of Idaho and Washington, the Coeur d'Alene and Spokane Tribes, and the Federal Natural Resource Trustee Agencies. Before issuing a ROD, we will seek concurrence from the State of Idaho and the Coeur d'Alene Tribe, and will consult with the State of Washington, the Spokane Tribe, and the Federal Natural Resource Trustee Agencies. EPA intends to rely heavily on these consultations and on public comment prior to making a "no further action needed" decision for the Lake.

PARTIAL DELETION FROM NPL

EPA can delete portions of sites listed on the National Priorities List (NPL) in instances where no further response is appropriate. This process is termed "partial deletion". The National Contingency Plan (40 CFR 300.425(e)) provides the regulatory framework for deletion. The process for a partial deletion includes a requirement to publish an "intent to delete" in the Federal Register, and a minimum 30-day public comment period. Prior to publishing a Federal Register notice, EPA must have concurrence to proceed with a partial deletion from both the State of Idaho and the Coeur d'Alene Tribe, as the governments having jurisdiction over the Lake. We will also again consult with the State of Washington, the Spokane Tribe, and the Federal Natural Trustee Agencies. After a public comment period, EPA will consider the comment we received and make a final decision. As with the ROD process, EPA will rely heavily on consultation with regulatory stakeholders and public comment, prior to making a final decision.

If the Lake were to be deleted from the NPL site, EPA would continue to monitor the water quality inflow and outflow of the Lake as part of the Basin Environmental Monitoring Program, track the progress and effectiveness of the Lake Management Plan, and review environmental

monitoring data collected under the Lake Management Plan. The Lake would also be included in CERCLA-mandated five year reviews of the NPL site, since contamination would remain in the lakebed sediment. Per the National Contingency Plan, if there is a significant release from a site deleted from the NPL, it may be restored to the NPL and be eligible for CERCLA response action funding without going through a new hazard ranking process. EPA has the authority under the statute to take actions at a deleted or partially deleted site if new information is found that the remedy is not protective or previously unknown contaminants present an imminent and substantial endangerment to human health or the environment.

LAKE MANAGEMENT FUNDING

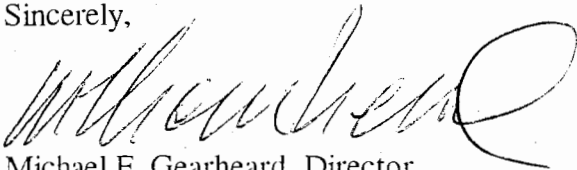
EPA has provided CERCLA funding to the State of Idaho and the Coeur d'Alene Tribe to support the development of a revised Lake Management Plan. CERCLA funding will not be available for the implementation of the Lake Management Plan because it is a non-CERCLA action, nor for monitoring the effectiveness of lake management actions. CERCLA funding can be used for monitoring the entire basin to determine CERCLA remedy effectiveness, including a long-term trends data analysis of the Lake. EPA intends to focus available CERCLA funding on continued implementation of response actions upstream and downstream of the Lake under the current RODs for the site. EPA will also provide assistance in working with the Basin Environmental Project Improvement Commission to identify alternate funding sources for Lake Management Plan Implementation.

SUMMARY

EPA commends the State of Idaho and the Coeur d'Alene Tribe for revising the Lake Management Plan. In making a remedy decision and issuing a ROD for the Lake, EPA will look for state, tribal, and local governments to make a long-term commitment to implement a sound Lake Management Plan. We will rely heavily on consultation with regulatory stakeholders, and public comment prior to making any decisions on a remedy or partial deletion for the Lake. EPA will continue to work with the governments and the community to implement the cleanup in the Coeur d'Alene River Basin, providing significant protection for the Lake.

Thank you for the opportunity to comment on the revised Lake Management Plan. We hope the information in this letter has been helpful in relating the Plan to the CERCLA actions in the Coeur d'Alene Basin. If you have any questions, please do not hesitate to contact me or my staff working on this project.

Sincerely,



Michael F. Gearheard, Director
Environmental Cleanup Office
USEPA Region 10

cc: Tom Fitzsimmons, Washington Dept. of Ecology
Alfred Peone, Spokane Tribe
Ann Badgely, US Fish and Wildlife Service
Brad Powell, US Forest Service
Basin Environmental Improvement Project Commissioners
Philip Cernera, Coeur d'Alene Tribe
Ed Tulloch, Idaho Department of Environmental Quality